

## HEALTH DEPARTMENT

The 21st December, 1971

No. 11404-ASO-III-HBII-71/874.—Whereas the Governor of Haryana is satisfied that the State of Haryana is threatened with an outbreak of a dangerous epidemic disease, viz., cholera and the ordinary provisions of law for the time being in force are in sufficient for the purpose. ;

Now, therefore, in exercise of the powers conferred by section 2 of the Epidemic Diseases Act, 1897, the Governor of Haryana makes the following requisitions, namely :—

1. These regulations may be called the Haryana Epidemic Diseases Regulations, 1969.

(1) In these regulations :—

(a) "epidemic disease" means cholera ;

(b) "Inspection posts means any place which may be declared by the Deputy Commissioner to be an inspection post ; and

(c) "Inspecting Officer" means inspecting officer appointed by the Chief Medical Officer of the District.

3. An Inspecting Officer who is unavoidably prevented from discharging all or any of the functions may by order in writing appoint any Senior Medical Officer, Medical Officer, Senior Sanitary Inspector, Sanitary Inspector, Assistant Unit Officer (Smallpox), Superintendent of Vaccination, Inspector, Vaccination or Vaccinator temporarily to discharge the functions of inspecting officer and the Senior Medical Officer, Medical Officer, Senior Sanitary Inspector, Sanitary Inspector, Assistant Unit Officer (Smallpox), Superintendent of Vaccination, Inspector, Vaccination or Vaccinator so appointed shall so far as such functions are concerned be deemed for the purpose of these regulations to be an "inspecting officer".

4. An inspecting officer may, at his inspection post, direct any person travelling by railway to remain in the carriage in which he is travelling or to leave the carriage in which he is travelling and come on the platform or on the line, and may prohibit any such person from leaving the platform or line or the inspection post.

5. An inspecting officer may, at his inspection post, make a medical inspection and examination of any person travelling by railway or by road in such manner and to such extent as he thinks necessary in order to ascertain whether there is any reason to believe, or suspect that such person is or may be suffering from cholera provided that such inspection or examination shall not be made in any manner or to any extent to which such person objects.

6. An inspecting officer may put to any such person travelling by railway or by road any question he thinks fit in order to ascertain whether there is reasons to believe or suspect that such person is or may be suffering from cholera and that person shall, be bound to answer truly any question put to him.

7. Where as a result of such inspection or examination or otherwise the Inspecting Officer considers that there is reason to believe or suspect that the person so inspected or examined or otherwise is or may be inspected with an epidemic disease, or where any person makes any objection under the proviso to regulations 5 the inspecting officer may direct that such person be removed to, and detained in any isolation camp or hospital established by the Deputy Commissioner, until the inspecting officer certifies in writing that in his opinion there is no longer any reason to believe or suspect such person to be infected by cholera.

8. Any person in respect of whom a direction has not been given under regulation 7 may apply to the inspecting officer to be allowed to attend upon any person in respect of whom such a direction has been given and the inspecting officer shall except for reasons to be recorded by him in writing, grant such application.

9. Any person who has made an application under regulation 8, and whose application has been granted shall be detained in such building, tent or other place whether near the inspection post or elsewhere as the inspecting officer may direct.

10. Any person in respect of whom a direction under regulation 7 or regulation 9, has been given shall not leave any place in which inspecting officer has directed him to be detained until the inspecting officer or a registered medical practitioner nominated by the inspecting officer in this behalf certifies in writing that in his opinion, there is no longer any reason to believe or suspect such person to be infected by cholera or that there is no longer any reason for retaining such person as the case may be.

11. An inspecting officer may order the destruction of any article which is or has been in the possession of a person in respect of whom the inspecting officer considers to have been in dangerous proximity to such person, provided that compensation may, in discretion of the officer empowered by regulation 13, to award the same be paid for the destruction or injury to any article in possession of the said person.

12. Any inspecting officer may enter any premises for the purpose of inoculation or for inspection of a case of cholera or suspected case of cholera or for disinfection.

13. Applications for the payment of compensation under regulation 11. may be made to the District Magistrate of the district concerned who shall upon receipt of any such application determine by order, in writing the amount of such compensation, if any, and such order shall be final.

14. These regulations shall remain in force from 1st January, 1972 to the 31st December, 1972.

B. L. AHUJA,

Commissioner for Health and Secy.

### PROTOCOL AND PUBLICITY BRANCH

The 5th January, 1972

No. 11724-6PP-71/44874:—The Governor of Haryana is pleased to constitute the Haryana Press Accreditation Committee with the following membership:—

- |  |                     |
|--|---------------------|
| 1. Shrimati Sharda Rani,<br>Chief Parliamentary Secretary    | .. Chairman         |
| 2. The Director, Public Relations, Haryana                   | .. Member-Secretary |
| 3. Shri V. D. Chopra,<br>Patriot, Chandigarh                 | .. Member           |
| 4. Shri B. K. Chum,<br>Reporter, National Herald, Chandigarh | .. Do               |
| 5. Shri Vidhya Sagar,<br>Hindustan, Times, Chandigarh        | .. Do               |
| 6. Shri Shanti Swarup,<br>Journalist, Kurukshetra            | .. Do               |

2. The Committee will advise Government on matters relating to the accreditation of the Press Correspondents. The Government may, however, disagree with any recommendation of the Committee, and grant or refuse accreditation or withdraw the same from any correspondent.

3. The Committee shall meet once in a quarter with its headquarters at Chandigarh.

4. The members of the Committee will draw their travelling allowance/daily allowance in accordance with the instructions contained in Chief Secretary's letter No. 795-Pol-66/18. dated the 4th January, 1967.

5. The Committee will function for a period of one year unless re-constituted earlier.

6. This notification issues with the concurrence of the Finance Department conveyed,—vide their U. O. No. 4920-4FGH-71, dated the 21st December, 1971.

KIRAN AGGARWAL, Joint Secy.

Dated Chandigarh,  
The 5th January, 1972.

### LABOUR DEPARTMENT

The 7th January, 1972

No. 57-4 Lab-72/791.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Arbitration Board, Karnal in respect of the dispute between the workman and the management of the Municipal Committee, Karnal.

BEFORE THE ARBITRATION BOARD, KARNAL. CONSTITUTED—*VIDE* ARBITRATION AGREEMENT PUBLISHED WITH HARYANA GOVERNMENT NOTIFICATION No. ID/AMB/29866-72, dated 1st October, 1971.

*Present—*

1. Shri Ram Lal Chaudhri. Chairman.
2. Shri Kartar Singh. Member.
3. Shri Karan Singh. Member.

*between*

THE WORKMEN AND THE MANAGEMENT OF THE MUNICIPAL COMMITTEE, KARNAL.

*Parties Present—*

1. Shri Sarda Ram, President, Municipal Karamchari Union, Regd. Karnal, on behalf of workman.
2. Shri Kishori Lal Sharma, Secretary, and Shri C.L. Sethi, Municipal Engineer, Municipal Committee, Karnal, on behalf of Management.

#### AWARD

PER CHAUDHRI.—

Some disputes arose between the workmen represented by the Municipal Karamchari Union Regd., Karnal and the Management of the Municipal Committee, Karnal. The parties after mutual negotiations agreed to get the matters settled through arbitration under section 10-A of the Industrial Disputes Act, 1947, amended upto date. Accordingly an arbitration agreement was signed by the parties in the presence of the Labour and Conciliation Officer, Panipat at Karnal, on 19th August, 1971. By this agreement the matters were referred to this Arbitration Board for adjudication, by the Governor of Haryana, in exercise of powers conferred under sub-section (3) of Section 10-A of the Industrial Disputes Act, 1947,—*vide* order No. ID/AMB/248/29866-72, dated 1st October, 1971, with the following terms of reference :—

1. Whether the workmen are entitled to increase wages ? If so, from which date and with what details ?
2. Whether the Beldars and Chungi Moharrirs who have completed 240 days service should be confirmed on their respective posts ? If so, from which date and with what details ?
3. Whether the annual increments of Sarvshri Shambhu Dayal, Asa Singh and Chaman Lal, Octroi Inspectors, stopped should be allowed ? If yes, with what relief and details ?
4. Whether the termination of services of the following workmen is justified and in order, If not, to what relief are they entitled ?

1. Shri Duli Chand Mate.
2. Shri Ran Singh Beldar.
3. Shri Dakhla, Beldar.
4. Shri Ram Daur, Beldar.
5. Shri Puran Chand, Beldar.
6. Shri Ram Dayal, Beldar.
7. Shri Munisar, Beldar.
8. Shri Ram Lakhan, Beldar.
9. Shri Ramesh, Beldar.
10. Shri Sat Narain, Beldar.
11. Shri Sita Ram, Beldar.
12. Shri Sadhu Ram, Peon.
13. Shri Tehal Ram, Moharrir.
14. Shri Jagdish Chander, Moharrir.
15. Shri Sat Pal, Moharrir.
16. Shri Harish Chander, Moharrir.
17. Shri Ram Dhan, Moharrir.
18. Shri Sarda Ram, Moharrir.
19. Shri Chambel Singh, Peon.

5. Whether Sarvshri Tehal Ram and Jagdish Chander, Octroi Moharrirs, are entitled to wages from 12th September, 1969, to 16th September, 1969 ? If so, with what details ?

6. Whether the workmen are entitled to Festival Holidays, if so, with what details?
7. Whether Shri Sushil Kumar, peon, is entitled to wages for the period of his suspension, if so, with what details ?
8. Whether stoppage of two increments of Sarvshri Shiv Nath Moharrirs, and Krishan Gopal, peon, is justified ? If not, to what relief are they entitled ?
9. Whether stoppage of two increments of Sarvshri Shiv Nath, Moharrirs,—*vide* order, dated 10th March, 1969, by the Administrator, is justified, if not, to what relief is he entitled ?

Usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workmen and the management filed their written statement. Rejoinder in reply to the written statement of management was also filed on behalf of workmen through the Municipal Karamchari Union, Regd. Karnal. Issues were framed in accordance with the terms of reference and thereafter several dates were fixed for recording the evidence of both the parties. The parties produced lengthy evidence and the management submitted files of individual cases of each dismissed workmen. Statements of large number of witnesses from both sides were also recorded.

After examining the statements of the witnesses and thoroughly scrutinizing the documents produced before this Arbitration Board, the members of the Board have unanimously come to the following conclusions and give their award accordingly:—

*Issue No. 1—*

Whether the workmen are entitled to increase in wages ? If so, from which date and with what details ?

The case of the workmen is that the Haryana Government,—*vide* its Notification No. 129-IPRC-69/18963, dated 7th July, 1969 published in *Haryana Government Gazette* dated 22nd July, 1969, has revised the pay scale of their employees with effect from 1st February, 1969, and therefore, the pay scales of employees of Municipal Committee, Karnal should also be revised from the said date. During the course of agitation started by the Municipal Karamchari Union, Regd. Karnal the then Administrator in accordance with an agreement made with another union, namely the municipal Subordinate Union, Regd. Karnal allowed the revision of pay-scale of all the employees of the Committee with effect from 1st October, 1969. The workmen represented by the Municipal Karamchari Union, Regd. Karnal, have also drawn wages in the revised pay-scales. The only question now remains to be decided is whether the revision of pay scales should be given effect from 1st February, 1969. The onus of proof for claiming the revision with effect from 1st February, 1969 was on the workmen, which they have not been able to give to our satisfaction. No doubt it is admitted by the Management in evidence that the income of the Municipal Committee has increased, but it is not sufficient for us to come to a definite conclusion that the Committee can bear the heavy burden of increase of wages with effect from 1st February, 1969. The workmen have produced a copy of Haryana Government letter No. 19128-CI-70, dated 15th November, 1971, marked Ex. WW 23/1, whereby the Committees have been advised to revise the pay-scale of their employees at Government rates if they so desire. This letter is also not helpful to the workmen, because the competence for making revision rests with the Committee.

On the other hand the Management has also failed to give the facts and figures relating to the effect of revision of pay-scale in case it is done with effect from 1st February, 1969. Except that the Management has denied the claim of revision in their written statement, no cogent reasons have been given for the rejection of the claim of the workmen in this respect. The Management has not led any evidence on this issue.

The demand notice for the revision of pay-scales was given by the workmen on 16th August, 1969. The Government notification in this effect was published in the month of July, 1969 as stated above. The workmen demand the revision of pay-scales with effect from 1st February, 1969 while the Management has already revised the pay-scales with effect from 1st October, 1969. Considering all the aspects of this case we feel inclined that the revision of pay-scales should be given effect to from 1st June, 1969 instead of 1st October, 1969, and we decide the issue accordingly.

*Issue No. 2.—*

Whether the Beldars and Chungi Moharrirs who have completed 240 days service should be confirmed on their respective posts ? If, so, from which date and with what details ?

The workmen have demanded that 56 employees of the Municipal Committee, Karnal, as per list attached with the statement of claims filed by them on 21st October, 1971, should be confirmed, because they have completed the period of 240 days of their service. The representative of the workmen has pleaded that the Municipal Committee has not adopted any procedure in this regard, and the junior employees have been confirmed ignoring the senior ones. The management was asked to file a statement showing the date of appointment and confirmation (if confirmed) of its employees. The statement was filed,—*vide* Exh. WW 1/5. We have examined both the lists

and found that there is truth in the contention of the workmen that the Municipal Committee did not take into consideration the seniority while confirming its employees. The management also failed to justify the non-confirmation of the employees concerned. We see no reason as to why these employees should not be confirmed.

After comparison of the lists produced by the parties it has transpired that Sarvashri Puran Chand, T x Collector, Paras Ram, Octroi Moharrir, Om Parhash son of Shri Chuni Lal, Octroi Moharrir, Ganpat Rai Octroi Peon, Behari Lal, Octroi Peon, Harbhagwan son of Shri Manohar Lal Peon, Krishan Kumar s/o Shri Tulsī Ram Peon and Puran Malaria Beldar have already been confirmed. Shri Dharam Singh, H.T.C. has already left the service of the Municipal Committee and one Shri Bishan Sarup Octroi Peon has also resigned. Four employees namely Sarvshri Jagdish Chander Octroi Moharrir, Harish Chander, Octroi Moharrir, Ram Lakhan Beldar and Sita Ram Beldar, are not in service of the Municipal Committee, Karnal nor have they been reinstated as discussed in Issue No. 4. Therefore the question of their confirmation does not arise. The remaining 42 employees whose names are given below are confirmed in service with effect from 1st January, 1972.

1. Shri Jagdish Chander, Octroi Moharrir.
2. Shri Sat Pal, Octroi Moharrir.
3. Shri Tehal Ram, Octroi Moharrir.
4. Shri Ram Dhan, Octroi Moharrir.
5. Shri Sulekh Chander, Octroi Moharrir.
6. Shri Ranjit Singh, Octroi Moharrir.
7. Shri Karam Chand, Octroi Moharrir.
8. Shri Narain Dutt, Octroi Peon.
9. Shri Ram Kumar, Octroi Peon.
10. Shri Om Parkash s/o Shri Munshi Ram, Octroi Peon.
11. Shri Om Parkash s/o Shri Baljit, Octroi Peon.
12. Shri Ram Kishan s/o Shri Lachhman Dass, Octroi Peon.
13. Shri Hari Kishan, Octroi Peon.
14. Shri Duli Chand, Mate Beldar.
15. Shri Dakhla, Beldar.
16. Shri Ram Dayal Beldar.
17. Shri Ran Singh, Beldar.
18. Shri Biru, Beldpr.
19. Shri Stya Narain, Beldar.
20. Shri Ramesh Chander, Beldar.
21. Shri Munisar, Beldar.
22. Shri Ram Daur, Beldar.
23. Shri Prabhu, Beldar.
24. Shri Arjun, Beldar.
25. Shri Sham Lal, Beldar.
26. Shri Rehtu, Beldar.
27. Shri Goma, Beldar.
28. Shri Hira, Beldpr.
29. Shri Mam Chand, Beldar.
30. Shri Matru, Beldar.
31. Shri Ajmer, Beldpr.
32. Shri Lekh Raj, Beldar.
33. Shri Dharma, Beldar.
34. Shri Uttam, Beldar.
35. Shri Kewal, Beldar.
36. Shri Geinda, Beldar.
37. Shri Tula, Beldar.
38. Shri Kalwa Beldar.
39. Shri Ram Singh, Beldar.
40. Shri Gobind Ram, Malaria Beldar.
41. Shri Puran Chand, Malpria Beldar.
42. Shri Dassu Ram, Malaria Beldar.

#### Issue No. 3.—

Whether the annual increments of Sarvshri Shambhu Dayal, Asa Singh and Chamman Lal, Octroi Inspectors, stopped should be allowed? If yes, with what relief and detail?

The workmen have demanded that the annual increments of Sarvshri Shambhu Dayal, Asa Singh and Chamman Lal, Octroi Inspectors, which were stopped by the management, should be allowed. All these three employees have appeared before us as WW1, WW13 and WW14. They have stated that neither any charge-sheet nor any show cause was given to them by the management before inflicting punishment on them. The management has produced file Ex. M.W.1/8 relating to the stoppage of increments of the above named employees. Going through the file we find that in fact no procedure for taking disciplinary action was followed by the management.

In *Amulya Ratan Mukerjee Vs. Deputy Chief Mechanical Engineer, Eastern Railway, A.I.R. 1961. Calcutta.* 40, Hon'ble Mr. Justice Sinha of the Calcutta High Court held that before punishing an employee the issue of charge sheet is essential. The Hon'ble Judge has said in para 2 of his judgement as under :—

“But the departmental enquiry starts from the charge-sheet. The charge-sheet must be specific and must set out all the necessary particulars. It is no excuse to say that regard had to the previous proceedings, the delinquent should be taken to have known all about the charges. Whether he knew it or not, he must again be told of the charges to which he is called upon to show cause and these charges must be specific and all particulars must be stated, without which, a man cannot defend himself. There is no duty upon the petitioner to connect the charge-sheet with any previous proceedings.”

It is admitted fact that no charge-sheet was issued to the above-noted employees before passing of punishment by way of stopping their annual increments by the management in August, 1969. Their increments were stopped on the allegation that their work was not satisfactory. On the other hand the employees have stated in evidence that they were allowed to cross efficiency bar, that their work was quite satisfactory and that they detected many cases of evasion of octroi. These employees were not cross-examined by the management.

Under the circumstances, we are of the opinion that the order passed by the Management for stopping the increments is improper, unjust and ultra vires. The order passed by the Management in this respect is, therefore, quashed. The concerned employees would be entitled to get increments accordingly.

#### *Issue No. 4.—*

Whether the termination of services of the following workmen is justified and in order, if not, to what relief are they entitled ?

The service of 19 employees was terminated by the Management. The contention of the workmen is that they have been victimized due to their trade union activities. Before discussing the case of each workman we consider it proper to give the background of the dispute between the parties. It is an admitted fact that in the year 1969 the then Administrator of Municipal Committee, Karnal terminated the services of these 19 workmen during the course of agitation and hunger strike started by the workmen through their union namely Municipal Karamchhari Union Regd., Karnal for the redress of their grievances. The Union gave a demand notice to the Administrator on 16th August, 1969 in respect of their certain demand. Another demand notice was also subsequently served by the union on 13th October, 1969. These demand notices are exhibited as W.W. 19/21 and W.W. 19/22 respectively. The Administrator did not accede to their demands and according to the contention of the workmen he became annoyed. The workmen started agitation by way of meetings, procession and hunger strike. It is admitted that a tent was installed at the main gate of the Municipal Office by the Union and the workmen started to sit on hunger strike in that tent. It is also admitted that the Administrator made an agreement with another union namely Municipal Subordinate Union Regd., Karnal during the course of conciliation proceedings pending before the Conciliation Officer, Karnal in respect of the demand notices served by the Municipal Karamchhari Union Regd., Karnal, as stated above. This agreement is in the file Exhibit M.W. 1/20 at page 7. The Administration gave on response to the conciliation proceedings. As stated by Shri Sarda Ram, president of the Municipal Karamchhari Union in evidence as W.W. 23, at one stage Secretary of the Municipal Committee, who appeared before the Conciliation Officer, gave proposal for judging the majority of the two rival unions and agreed to accede to the demands of the majority union, to which the representative of the Municipal Karamchhari Union Regd., agreed. The date for this purpose was fixed. But the Administrator withdrew the undertaking given by the Secretary with the remarks that the Secretary was not competent to give such an undertaking. The workmen plead that this action of the Administrator clearly shows his intention against the employees who were taking part in the agitation, as the Administrator started to victimised them. The Municipal Karamchhari Union has produced a large number of witnesses who have supported the facts stated above. On the other hand neither the then Administrator has appeared before us nor the Management has controverted the above facts. We have also carefully examined the whole evidence produced before us and feel no hitch in declaring that the then Administrator acted in revenge against the employees who took part in the agitation.

Now we consider it proper to discuss the cases of the workmen noted in this issue on their merits as under :—

#### **Serial No. 1 to 11 (Beldars)**

Out of these 19 workmen there is a set of eleven persons namely Sarvshri Duli Chand, Ran Singh, Dakhla, Ram Daur, Puran Chand, Ram Dayal, Munsar, Ram Lakhan, Ramesh, Sat Narain and Sita Ram. The first person was working as Mate while the other 10 persons were Beldars in the Municipal Committee Karnal. It is an admitted fact that they were working in the Municipal Committee since 1966 according to the list Exhibit W.W. 1/5 by the Accountant of the Municipal Committee. It is also an admitted fact that their services were terminated during the course of agitation launched by the workmen. The contention of the Management is that they were temporary employees and their services were terminated at the expiry of the term of their

appointment, and the then Administrator was justified in doing so. However, the statement Exhibit M.W.2/3 reveals that their services had been extended from time to time previously. In our opinion these workmen were the regular employees of the Municipal Committee because they had been working for more than three years. If the Administrator wanted to terminate their services, it was incumbent upon him to issue Retrenchment Notice under Section 25F of the Industrial Disputes Act, 1947 and besides this it was obligatory to give compensation to such workmen under the provisions of the said Act, but the Administrator did not comply with the said requirements. Section 25F of the said Act runs as under :—

“25-F. Conditions precedent to retrenchment of workmen. No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until.—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice wages for the period of the notice :

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service ;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay “for every completed year of continuous service” or any part thereof in excess of six months ; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the official Gazette.”

The Management has produced a list Exhibit M.W.2/3 by which the dates of appointments of the workmen in dispute have been shown. The list further reveals that there is no break in the service of the said workmen and that they have worked continuously. The date of appointment of each workman is as under :—

1. Shri Duli Chand	..	6-3-1963
2. Shri Ran Singh	..	1-3-1964
3. Shri Dakhla	..	1-3-1964
4. Shri Ram Daur	..	6-7-1963
5. Shri Puran Chand	..	1-4-1967
6. Shri Ram Dayal	..	1-9-1967
7. Shri Munisar	..	6-2-1964
8. Shri Ram Lakhan	..	1-9-1967
9. Shri Ramesh	..	1-8-1966
10. Shri Sat Narain	..	1-4-1964
11. Shri Sita Ram	..	24-7-1963

Section 25-B of the Industrial Disputes Act, 1947, defines the ‘Continuous services’ as under :—

“25—B. Definition of continuous service.—

For the purpose of this Chapter,—

(1).....  
.....  
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(2) Where a workman is not in continuous service within the meaning of Clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer —

(a) for a period of one year, if the workman, during a period of twelve calendar months preceeding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine ; and

(ii) two hundred and forty days, in any other case ;—

(b) .....

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In Mohamed Ibrahim and Alcock, Ashdown and & Co. Ltd., 1956-I-LLJ-634, the Industrial Tribunal Bombay, while defining the 'Continuous service' has said —

"According to Section 25B of the Industrial Disputes Act, in order to qualify for one years, continuous service, the actual work aggregating to at least 240 days should be done within a span of twelve calendar months. The section clearly lays down that the actual work for not less than 240 days should be done during a period of twelve calendar months. The workman must satisfy two conditions before he can claim the benefits afforded by section 25C and 25F. The first condition is that he must have put in twelve calendar months' service with the employer. The second condition is that during this service of twelve calendar months he must have actually worked for not less than 240 days."

In Sur Enamel and stamping Works Ltd., and their workmen, 1963-II-LLJ-367, the Supreme Court has confirmed this view of the Industrial Tribunal, Bombay. The Supreme Court held—

"Before a workman can be considered to have completed one year of continuous service in an industry within the meaning of Section 25B of the Industrial Disputes Act, it must be shown first that he was employed for a period not less than twelve calendar months and next that during these twelve calendar months he had worked for not less than 240 days."

Keeping in view the definition of the provisions of Section 25B and 25F of the said Act, and the decisions of the Courts referred above, we are of the definite opinion that the Management of the Municipal Committee, Karnal, has violated the provisions of Law and on this very account the termination of services of these employees is illegal and void.

The Management has further pleaded that the employees except Sarvshri Sat Nārāin and Sita Ram, were directed to get their names registered in the Employment Exchange for extension in their appointment, vide Exhibit W.W. 1/7. The workmen have denied having received any such notice. No proof of service of this notice has been given by the Management, not the person through whom the notice was stated to have been served was produced in evidence. It is note-worthy that the notice was issued on 28th November, 1969 whereas the order of its issue was passed by the Administrator on 31st October, 1969. Further it was the duty of the Management to send the notice through registered post which the Management has not done. In Bata Shoe Company (Private) Ltd., and Ganguly (D. N.) and others, 1961-I-LLJ-303, the Supreme Court of India, has laid down the mode and manner of service of such notice to be served upon the workmen. The Supreme Court has observed—

"Held, that the proper course was when the registered notices came back unserved to publish notices in the individual names of the concerned workmen in some newspaper in the regional language with a wide circulation in the area alongwith the charges framed against them."

We also fail to understand why they were asked to get their names registered with the Employment Exchange when they were already in regular service of the Municipal Committee. This fact is admitted that other persons were employed on the jobs of these terminated employees. It has also been admitted by Shri C.L. Sethi, Municipal Engineer of the Municipal Committee, Karnal, in his statement as M.W. 2.—

"The employees who were engaged on the jobs of terminated employees were employed on daily wages. At the time of employment there is no necessity to notify the post to Employment Exchange. Later on these posts were notified to the Employment Exchange.

.....

.....

.....



I cannot say when the letter for notifying the post to the Employment Exchange was received in the office of the Municipal Committee, Karnal."

The contention of the Management is that they were asked to get their names registered with the Employment Exchange according to the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, and the instruction (letter) received from the State Government. It is not out of mention here that Shri C.L. Sothi, Municipal Engineer of the Committee, M.W. 2 has failed to give the date of receipt of such letter from the Government. The management has also failed to prove why at this stage when the agitation of the workmen was going on, these employees were asked to get their names registered with the Employment Exchange. The Management has also not considered their names a fresh at the time of filling the jobs of Buldars. The Municipal Committee was not barred by the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, for doing so. These employees were experienced hand and were working in the Committee for the last so many years. In "The Municipal Committee, Amritsar, *Versus* The State of Punjab etc.", Civil writ No. 3125 of 1970, decided on 8th February, 1971. The Hon'ble Mr. Justice H.R. Sodhi of the Punjab and Haryana High Court has observed as under :—

"Sub-section (1) of the aforesaid section is mandatory in terms and makes it obligatory for an employer in every public sector to notify to the Employment Exchange as may be prescribed the vacancy or vacancies sought to be filled up. A plain reading of sub-section (4) leaves no room for doubt that no obligation is cast on the employer that he must recruit the person sponsored by the Employment Exchange simply because the vacancy had been notified to the latter under Sub-section (1) or sub-section (2). In its true analysis, the position is that after having notified the vacancies, the employer may go on rejecting the candidates sent up by the Employment Exchange. The scheme of the Act appears to be that the unemployed persons should get their name registered with an Employment Exchange so that an opportunity was available to them in a public or private sector as the case may be and not that the whole law of master and servant be put at naught and that an employer forced to recruit only the persons coming through Employment Exchange, no matter whether he is fit for the job or not, nor is any appointment made without complying with the provisions of Section 4, rendered invalid."

As regards Sarvshri Sat Narain and Sita Ram whose services were terminated on 31st October, 1969, the file, Ex. MW 2/2 at page 105 shows that they were removed from service on the ground of their unsatisfactory work. This order was passed by the Administrator on 31st October, 1969. Neither any explanation was called for from them through a charge sheet nor any enquiry was held before passing the order of their removal from service. In *Maenglas Tea Estate and its workmen*, 1963-II-LLJ-392, Supreme Court held—

"It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of any enquiry of this character and this requirement must be substantially fulfilled before the result of the enquiry can be accepted. A departure from this requirements in effect throws the burden upon the person charged to repel the charge without first making it out against him."

In view of the facts explained above we feel that all these employees have been victimised due to their trade union activities. The orders passed by the Administrator are in violation of the Principles of Natural Justice and with mala fide intention. We hold that the termination of their services is illegal, improper and unfair. It may be pointed out that two of the eleven employees namely Sarvshri Ram Lakhan and Sita Ram, who are stated to be already in service elsewhere and whose claim has not been pressed by the Representing Union, are not entitled to any relief. The remaining nine employees are hereby re-instated with continuity of service and they are allowed two-third of their consolidated wages for the interim period from the date of their termination of services to the date of their re-instatement.

#### Serial No. 12 (Shri Sadhu Ram)

Shri Sadhu Ram, Peon is alleged to have been discharged from service,—vide Administrator's order, dated 14th August, 1969 as per Ex. M.W. 1/5 (Service Book). No reason for his discharge has been given in the Service Book. The file of this case is not before us. Shri Sadhu Ram has appeared before the Board as WW 10. He has stated on solemn affirmation that he was working as peon in the Municipal Committee for the last 10 years, that he was suffering from the disease of Harnia, and that he applied for two months' leave for treatment which was granted. He has further stated that he applied for further leave, whereupon he was asked to produce medical certificate from the Chief Medical Officer, Karnal which he did. As stated by him he was in the meantime served with a notice of discharge without assigning any reason or giving him any charge sheet or show cause notice. The Management was asked to cross-examine the witness but the representative of the Management did not like to do so. The statement is, therefore, relied upon in the absence of any evidence against it.

The dismissal includes discharge. In *Macfarlane and Co. versus Sudhir Kumar Dhar*, 1954-I-LLJ-336, the Labour Appellate Tribunal, holds that discharge connotes termination of service of an employee by his employer. In another case of *Swaransing Laxmansing versus Bombay Garage (Ahmadabad) Ltd.*, 1961-II-LLJ-40, the Division Bench of the Gujrat High Court has observed as under :—

“In order to determine whether an order which purports to be an order of discharge is in reality an order other than that of discharge, surrounding circumstances have to be considered. The mere fact that the order of discharge has been passed after the employee has been found guilty of misconduct does not by itself suffice for the purpose of holding that the order is not what its language says or implies but is something different from what the language used in the order implies. As indicated earlier an order of discharge may be passed after an employee has been held guilty of misconduct. The authority may take a lenient view of the matter, the authority may take a charitable or generous view instead of imposing the extreme punishment of dismissal may be content with passing an order of discharge.”

Accordingly, the Management was bound to issue charge-sheet and hold enquiry into the charges, if any, levelled against the delinquent before passing the order of discharge. In the absence of complete record of this case it is very difficult for us to decide whether the discharge was a discharge simpliciter or discharge as punishment for some blame-worthy act or omission. In this case the Management has not given the reason of discharge in the Service Book.

In view of the statement of Shri Sadhu Ram and the circumstances explained above, we come to the conclusion that no charge-sheet or show cause was served to him before his discharge. No enquiry was held against him, nor any principles of Natural Justice have been followed in this case. We, therefore, re-instate him with continuity of service and award half back consolidated wages, from the date of his discharge, i.e., half of the total wages including D.A. and B.P. he was drawing at the time of his discharge.

#### *Serial Nos. 13 to 17 (Octroi Moharrirs)*

Before discussing the cases of these employees, it may be pointed out that the cases of Sarvshri Jagdish Chander (S. No. 14) and Harish Chander (S. No. 16) have not been pressed by the Representatives of the Municipal Karamchhari Union Registered, Karnal, because they are stated to be in service elsewhere, and they have not appeared before us to claim their reinstatement. We are now concerned with the cases of Sarvshri Tehal Ram (S. No. 13), Sat Pal (S. No. 15) and Shri Ram Dhan (S. No. 17). From the statements of these employees as WW 11, WW22 and WW 12 respectively, it appears that like Beldars they have been victimised only due to their trade union activities and taking active part in the agitation started by the Municipal Karamchhari Union Regd., Karnal for the redress of their grievances. They have stated that they had been working against the posts of octroi Moharrirs in the Municipal Committee, Karnal for the last about three years. They have further stated that no charge-sheet or any show cause notice was issued to them, nor any enquiry was held against them before termination of their service, as required under the law. On the other hand the Management has produced file M.W.1/6. On examining this file it transpires that two octroi posts, namely Miranghati Octroi post and Saharanpuri Road Octroi post were abolished,—vide Administrator's order, dated 13th November, 1969, as a result of which the services of Sarvshri Tehal Ram (S. No. 13), Jagdish Chander (S. No. 14), Sat Pal (S. No. 15), Ram Dhan (S. No. 17), and Harish Chander (S. No. 16) were terminated. None appeared before the Board on behalf of the Management to justify the termination of services of the above employees except to handing over the above-noted file to the Board, nor any cross-examination on the statement of these employees has been made by the representative of the Management. These employees have stated that person junior to them were working as octroi Moharrirs at the time when their services were terminated. It is an admitted fact that the two octroi posts were abolished during the course of agitation started by the Union and no consideration was given to the seniority list while removing the above-noted employees. The provisions of Section 25F and Section 25G of the Industrial Disputes Act, 1947 were not complied with by the Management. The formula 'First come-Last go' was not applied in this case. The wordings of Section 25F have already been written while discussing the case of Beldars and Section 25G runs as under :—

“25G—*Procedure for retrenchment.*—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.”

The other facts of their case are similar to the case of the Beldar. We are of the opinion that workmen have been victimized for no fault of theirs, and that it is clear violation of law. We, therefore, re-instate Sarvshri Tehal Ram (S. No. 13), Sat Pal (S. No. 15) and Ram Dhan (S. No. 17) to the posts of Octroi Moharrirs from the date of termination of their services and we allow them half consolidated pay for the interim period of their unemployment. According to the statements of Sarvshri Sat Pal and Ram Dhan they had been employed elsewhere from 27th February, 1971 to 30th November, 1971 and from 9th February, 1970 to 20th September, 1970 respectively, should not be paid any compensation for that period.

*Serial No. 18 and 19 (Sarvshri Sarda Ram and Chambel Singh).*

The Management has not contested this case on merits. The management has only produced enquiry file Exhibit MW 1/10 relating to this case. According to this file an enquiry was held by the then Administrator on the charges of misconduct against these workmen to which Shri Sarda Ram W.W. 23 in his statement, has challenged on the following grounds :—

- (1) The enquiry was not conducted in accordance with the principles of Natural Justice. He alleges that he gave three applications Exhibit WW 19/26 to WW 19/28 to the Administrator during the course of enquiry by which he demanded that he might be allowed to bring with him a literate co-worker to help him in the enquiry because he had no knowledge of the procedure of enquiry that the copies of documents to be used against him be supplied, and that he might be allowed to inspect the file relating to the enquiry against him. His requests were not acceded to by the then Administrator, as alleged. The applications are stated to have been submitted under postal certificate marked Exhibit WW/19/29 to EE 19/31. The copies of the said applications forwarded by Shri Sarda Ram to the Labour Inspector, Karnal have been produced in evidence by WW 20, clerk of the office of the Labour Inspector, Karnal, which have been marked Exhibit WW 20/1 and WW 20/2.
- (2) He being the president of the Municipal Karamchhari Union Regd, Karnal was victimised due to his trade union activities. He gave demand notices to the then Administrator on behalf of the workmen, and the union started agitation and hunger strike for the redress of their grievances under his advice and control. The Administrator became annoyed.
- (3) In this case the charge sheet was issued on 1st September, 1969, on the complaint dated 20th May, 1969 i.e. after 4 months, and soon after the demand notice dated 16th August, 1969, was served by the Municipal Karamchhari Union Regd., Karnal, through him.

We have thoroughly examined the file Exhibit MW1/10 produced by the Management and the statements of Sarvshri Sarda Ram and Chambel Singh. We have come to the conclusion that the enquiry was not conducted in a fair and proper manner and sufficient opportunities for defence were not afforded to them as required by law. The procedure of fair and proper enquiry has been defined in so many rulings of the Supreme Court and High Courts. Reliance has been placed on the following decisions of the Higher Courts.

*G. McKenzie and Co., Ltd. and their workmen and others, 1959-1-LLJ-285 (Supreme Court).—*

“Undoubtedly, the management of a concern has power to direct its own internal administration and discipline ; but the power is not unlimited and when a dispute arises, industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In cases of dismissal on misconduct, the tribunal does not, however, act as a court of appeal and substitute its own judgement for that of the management. It will interfere (1) when there is want of good faith, (2) When there is victimisation or unfair labour practice, (3) when the management has been guilty of a basic error or violation of a principles of natural justice, and (4) when on the materials the finding is completely baseless or perverse”.

“It is for the management to determine what constitutes major misconduct within its standing orders sufficient to merit dismissal of a workman but in determining such misconduct it must have facts upon which to base its conclusions and it must act in good faith without caprice or discrimination and without motives of vindictiveness, intimidation or resorting to unfair labour practice and there must be no infraction of the accepted rules of natural justice. When the management does have facts from which it can conclude misconduct, its judgement cannot be questioned provided the above-mentioned principles are not violated. But in the absence of these facts or in case of violation of the principles set out above, its position is untenable”.

*Workmen of Maddura Company Ltd., Cochin and Labour Court, quilon, and others, 1966 -1-LLJ-498, High Court, Kerala.—*

“In the instant case the concerned worker was dismissed for having been found guilty of two charges levelled against him. Two separate enquiries were conducted in regard to the two charges. The enquiry Officer in regard to first charge gave evidence in the second enquiry while the enquiry in regard to the first charge was going on before him. The worker was denied the assistance of a co-worker knowing english to enable him to understand the full implications of the documents and to cross-examine the witnesses. Certain material questions on material particulars were found to have been put to the witnesses of the management. Hence the Labour Court held that the enquiry was not fair and proper”.

*National Tobacco Company of India Ltd., and others Versus Fourth Industrial Tribunal and others, 1960-II-LLJ-175, High Court of Calcutta.—*

"Victimisation means one of two things: The first is when the workman concerned is innocent and yet he is being punished because he has in some way displeased the employer, for example, by being an active member of an union of workmen who were acting prejudicially to the employer's interest. The second case is where an employee has been committed an offence but he is given a punishment quite out of proportion to the gravity of the offence, simply because he has incurred the displeasure of the employer in a similar manner as mentioned above. But where it is found that the employee is guilty of gross misconduct then there cannot be any question of victimisation because it merits dismissal by itself."

*South Kujana Colliery and Central Government Industrial Tribunal, Dhanbad and another, 1967-II-LLJ-193 High Court of Patna.*

"The Tribunal has power to interfere with the quantum of punishment where it finds that the management has been actuated by malafide, unfair labour practice or victimisation".

"The question as to whether a case has been made out for the interference of the tribunal must be determined with reference to the facts and circumstances of each case, and powers of the Tribunal to interfere does not come to an end only where it finds that there was a proper enquiry upon a proper charge sheet. It is open to the tribunal to interfere with the punishment awarded by the management when there has been unreasonable discrimination in the matter of punishment."

*State of Madhya Pradesh versus Chintaman Sadashiva Waishampayan, A.I.R. 1961, S.C. 1923.*

"Stating it broadly and without intending it to be exhaustive it may be observed that rules of natural justice require that a party should have .....

The right to cross-examine the witnesses who give evidence against him is a very valuable right and if it appears that effective exercise of this right has been prevented by the enquiry officer by not giving to the officer relevant documents to which he is entitled, that inevitably would mean that the enquiry had not been held in accordance with the rules of natural justice".

The workmen representative have produced ample evidence before us to prove their case of victimisation. It is admitted fact that demand was given to the Administrator on 16th August, 1969, which was signed by Shri Sarda Ram. It is also proved that the then Administrator was annoyed with the members of the Municipal Karamchhari Union Regd. Karnal due to their trade union activities. It is also admitted fact that Shri Sarda Ram and Shri Chambel Singh were issued charge sheets after the lapse of four months from the date of complaint and that it was issued soon after the demand notice was given to the Administrator on 16th August, 1969. Shri Sarda Ram and Shri Chambel Singh have not been cross-examined by the Representative of the Management. In view of the authorities referred to above and keeping in view the oral and documentary evidence produced by the parties we hold that the enquiry held against Sarvshri Sarda Ram and Chambel Singh on the charge of misconduct is not fair and proper. We further held that the Administration has acted clearly in violation of the rules of natural justice and with mala fide intention. The enquiry was not done in good faith and the workmen were deprived of the opportunity of proper defence by not supplying the copies of documents as demanded by them. Therefore they are entitled to the relief of re-instatement with continuity of service and half consolidated wages, i.e. half of what they were drawing as pay and other allowances at the time of their dismissal, from the date of their dismissal to the date of their re-instatement.

*Issue No. 5.—*

Whether Sarvshri Tehal Ram and Jagdish Chander Octroi Moharrirs, are entitled to wages from 12th September, 1969, to 16th September, 1969? If so, with what details?

The Management has produced files Exhibit MW 1/15 and MW 1/13 relating to the cases of Sharshri Tehal Ram and Jagdish Chander, Octroi Moharrirs respectively. The files reveal that the then Administrator stopped the chance of employment of both the workers on complaint dated 7th August, 1969 and 21st June, 1969. By this order both the workers were relieved of their service with effect from 12th September, 1969. However, we find another order dated 16th September, 1969, of the Administrator, which is at page 125 of the file Exhibit MW 1/13 and which runs as under :—

"I have considered the representations of Sarvshri Tehal Ram Octroi Moharrir candidate Jagdish Chander, son of Shri Mela Ram Octroi Moharrir candidate against their suspension of chance

pending decision of the enquiry. They are hereby re-instated. The departmental proceedings will continue. The octroi Superintendent should take further necessary action in the matter".

It is an admitted fact that no charge sheet was issued to them before passing the order of suspension of their chance. The Administrator himself first stopped the chance and subsequently reinstated them without giving any reason whatsoever. The files Exhibit MW 1/15 and MW 1/13 further reveal that no enquiry was conducted against them on the complaint. In these cases charge sheets were given to them on 5th October, 1969 i.e. after their reinstatement on 17th September, 1969. The cases are still lying pending for want of enquiry. The contention of the workmen is that they started Dharna at the main gate of the Municipal Committee, Karnal, in support of the demands of the workmen, and took active part in the agitation and hunger strike started by the Municipal Karamchari Union Regd, Karnal. They have further stated that the Administrator became annoyed and in revenge stopped their chance. It appears that when the Administrator came to know that he had no valid reason in passing orders of suspension of their, he reinstated them after 5 days of his own accord. The workmen had been serving the municipal committee for the last three years and as such they are considered to be regular employees. None has appeared before us to justify this action of the Administrator and the representatives of the Management have not even cross-examined the workmen in evidence. In view of the circumstances of the case we are of definite opinion that the order passed by the Administrator for stopping their chance was unjust and bad in law. We, therefore, hold that the period from 12th September, 1969 to 19th September, 1969, should be considered as on duty in the case of both the workmen, namely Sarvshri Tehal Ram and Jagdish Chander. They are allowed 5 days full wages and continuity of service.

*Issue No. 6.*—Whether the workmen are entitled to Festival Holidays ? If so, with what details ?

It has been stated by the Accountant of the Municipal Committee, Karnal in evidence as W.W.1 that the festival holidays have already been allowed to the workmen except sweepers. The Accountant has also placed an order dated 6th May, 1970 Exhibit WW 1/4 by which the Administrator has allowed 7 festival holidays for (1) 26th January, (2) 15th August, (3) 2nd October (4) Holi (5) Dusehra (6) Diwali (7) Janam Ashtmi. The Accountant has further stated in his statement that the bills for compensation of festival holidays in the case of employees who did not avail of the festival holidays are under pre-audit. This order of the Administrator has been confirmed by the Municipal Committee vide its resolution No. 19 dated 25th October, 1971. In view of this position we have nothing to say on this point. The seven festival holidays allowed by the Management are reasonable. It is made clear that since the festival holidays have been allowed the employees who are required to work on any festival holiday shall be paid compensation by the management for that day, which shall be equivalent to one day's wage.

*Issue No. 7.*—

Whether Shri Sushil Kumar, Peon, is entitled to wages for the period of his suspension. ? If so, with what details ?

It is a very simple matter. Shri Sushil Kumar, Octroi Peon was suspended from service by the then Administrator, —vide his order dated 5th July, 1969, at page 31 of the file Exhibit MW 1/19 on the complaint that he refused to take the registered alongwith the Octroi Moharrir to Head Octroi Office. But later on the Administrator reinstated him, —vide his order dated 18th July, 1970 at page 25 of the file Exhibit MW 1/18, which runs as under :—

"Shri Sushil Kumar Peon (under suspension) is hereby reinstated and posted with the Naib Tehsildar recovery vice Kailash Chander, who will join his parent department and will relieve Shri Parshotam Das, peon candidate. The enquiry pending against Sushil Kumar will however continue".

Shri Sushil Kumar has appeared before the Board as WW 15. He has stated that he was peon in the main office of the Municipal Committee, Karnal and was transferred to Octroi Department, that his suspension was due to his trade union activities, that charge sheet was served on him after 6 months of the suspension and that the enquiry was conducted in violation of the rules of natural justice. After examining the record produced before us by the Management and keeping in view of the statement of Shri Sushil Kumar we feel that Shri S.N. Goel, the then Administrator suspended him in order to victimise him due to his trade union activities. It is evident that Shri S.N. Goel was annoyed with the employees who were members of the Municipal Karamchari Union Regd Karnal and he started to harass the employees on one pretext or the other. It is supported by the fact that his successor, Shri N.S. Sandhu after taking the charge of Administrator reinstated Shri Sushil Kumar, —vide his order dated 18th July, 1970, referred to above. We have nothing to say about the merits of the case, because the same are not in issue before us. But we are of the opinion that the order of suspension was passed with malafide intention and to victimize the employee in question. The suspension has been effected on a very simple excuse. The reinstatement during the course of enquiry also proves that the suspension was not justified. Therefore we allow full wages for the period of suspension of Shri Sushil Kumar, peon, Octroi Department.

*Issue No. 8.*—

Whether the stoppage of two annual increments of Sarvshri Shiv Nath, Moharrir and Krishan Gopal, peon, is justified ? If not, to what relief are they entitled ?

The Management has placed file Exhibit MW 1/11 before us. The matter on which the increments of Sarvshri Shiv Nath Octroi Moharrir and Krishan Gopal Octroi peon, were stopped has been examined. The fact is that a truck load of wood came to the Central Barrier on 20th November, 1968., under pass (O.S.) No. 48/79 on 20th November, 1968. The truck load contained fuel wood as well as timber (Karamad) wood. The Moharrir after weighing the whole truck at the weighbridge estimated 20 quintals of timber (Karamad) wood out of the entire load, and charged octroi accordingly. However, the octroi Inspectors who came to the Central Barrier at that time, estimated the weight of timber (Karamad) wood loaded on the said truck as 39 quintals 10 kilograms and made a complaint against both the above-noted octroi Moharrir and peon for charging less octroi as the rate of octroi on timber wood was higher than that on fuel wood. The contention of the delinquents who appeared as WW 16 and WW 17 is that this case was made against them due to enmity and party faction, that the enquiry was not done in accordance with the principles of Natural Justice, and that they have been victimised due to their trade union activities.

We have thoroughly examined the file Exhibit MW 1/11 relating to this case and find that in case of Shri Krishan Gopal the Administrator,—vide his order dated 19th July, 1969, at pages 99 to 105 of the said file, only censured the action of the said peon. We fail to understand how two increments of the said peon have been stopped by the office of the Management. Therefore, the stoppage of increments of Shri Krishan Gopal is invalid and without jurisdiction.

As regards Shri Shiv Nath the punishment awarded by the Administrator in this case is very severe in view of the fact that the assessment of weight of timber (Karamad) wood was made on hypothetical basis and the supervising staff did not care to weight the timber (Karamad) wood separately at the weigh bridge in order to ascertain the actual weight. We fail to understand as to how the weight of timber (Karamad) was assessed as 39 Quintals and 10 Kilograms out of the mixed truck load of fuel wood and timber. It is evident from the charge sheet at page 27 and reply to the charge sheet at page 29 and the enquiry proceedings contained with file Exhibit MW 1/11 that all the concerned persons had assessed the weight on hypothetical basis which cannot be said to be actual. The punishment at this account appears to be unjust and improper. We, therefore, decide that two increments of Sarvshri Shiv Nath, Octroi Moharrir and Krishan Gopal, Octroi peon, stopped by the Administrator should be restored. We further declare that whole order of the Administrator is improper and invalid.

issue No. 9—Whether stoppage of two annual increments of Shri Shiv Nath, Octroi Moharrir— vide order dated 10th March, 1969, by the Administrator, is justified, if not, to what relief is he entitled ?

This case also relates to the stoppage of two increments of Shri Shiv Nath Octroi Moharrir,—vide Administrator's order dated 10th March, 1969. The Management has produce file Exhibit MW 1/9 which has been carefully examined by us. The only point for consideration is that whether the goods seized by the octroi Inspector were brought from the same octroi post where Shri Shiv Nath was working or from some other route. The importer of the goods in his statement dated 10th June, 1968. at page 1 of the file Exhibit MW 1/19 asserted that he brought some of the goods through the octroi post and the remaining consignment through another kacha path. The contention of Shri Shiv Nath was also based on this point that the importer must have brought a part of goods by another route. This point was not controverted in the enquiry proceedings. No eye-witness or other circumstantial evidence was produced in the enquiry to prove that the entire goods were imported only through the route of the octroi post. In the enquiry proceedings only two witnesses namely Sarvshri Sham Sunder, Octroi Superintendent, and Chaman Lal, Octroi Inspector, have appeared before the Enquiry Officer. These two witnesses are actually party to the case. No other impartial and independent person has been examined before the Enquiry Officer. The importer of the goods has also not been produced before the Administrator at the time of enquiry held in the presence of the delinquent and the opportunity of the cross-examining the said witness has not been afforded to Shri Shiv Nath.

Under the circumstances explained above we are of the view that the punishment awarded to Shri Shiv Nath, Octroi Moharrir by way of stoppage of two increments is wholly unfair, improper and unjustified. We, therefore, decide that his two increments which have been stopped should be allowed.

We give our award in all the issues accordingly. There will be no order as to costs.

Dated, Karnal, the 29th December, 1971

(Sd.) (Sd.) (Sd.)  
करन सिंह KARTAR SINGH RAM LALL CHAUDHRI  
(KARAN SINGH)  
Member Member Chairman  
Arbitration Board, Karnal, Haryana.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under sub-section (4) of Section 10-A of the Industrial Disputes, Act, 1947.

The 29th December, 1969

(Sd.) (Sd.) (Sd.)  
करन सिंह KARTAR SINGH RAM LALL CHAUDHRI  
(KARAN SINGH)  
Member Member Chairman  
Arbitration Board, Karnal, Haryana.